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Planning and Development (Strategic Infrastructure) Act 2006

Further

amendment of

Transport

(Railway

Infrastructure)

Act 2001.

50.— The Transport (Railway Infrastructure) Act 2001 is further amended by inserting the following sections after section 47A (inserted by section 49):

“Discussions with Board before making an application.

47B.— (1) The Agency, CIÉ or any other person who proposes to apply for a railway order in accordance with section 37(1) shall, before making the application, enter into consultations with the Board in relation to the proposed railway works.

(2) Such a person is referred to subsequently in this section and in section 47C as a ‘prospective applicant’.

(3) In any consultations under subsection (1), the Board may give advice to the prospective applicant regarding the proposed application and, in particular, regarding—

- (a) the procedures involved in making an application under this Part and in considering such an application, and
- (b) what considerations, related to proper planning and sustainable development or the environment, may, in the opinion of the Board, have a bearing on its decision in relation to the application.

Section 47B: supplemental provisions.



47C.— (1) A prospective applicant shall, for the purposes of consultations under section 47B, supply to the Board sufficient information in relation to the proposed railway works so as to enable the Board to assess those works.

(2) The Board may, at its absolute discretion, consult with any other person who may, in the opinion of the Board, have information which is relevant for the purposes of consultations under section 47B in relation to the proposed railway works.

(3) The holding of consultations under section 47B shall not prejudice the performance by the Board of any other of its functions under this Act or the Planning and Development Act 2000 or regulations under either of those Acts and cannot be relied upon in the formal planning process or in legal proceedings.

(4) The Board shall keep a record in writing of any consultations under section 47B in relation to proposed railway works, including the names of those who participated in the consultations, and a copy of such record shall be placed and kept with the documents to which any application in respect of the proposed railway works relates.

Supplemental powers for the Board.

47D.— (1) Before determining an application for a railway order, the Board may, at its absolute discretion and at any time—

- (a) request further submissions or observations from the applicant, any person who made submissions or observations in relation to the application or any other person who may, in the opinion of the Board, have information which is relevant to the determination of the application,
- (b) without prejudice to section 41, make any information relating to the application available for inspection, notify any person or the public that the information is so available and, if it considers appropriate, invite further submissions or observations to be made to it within such period as it may specify, or



(c) hold meetings with the applicant or any other person where it appears to the Board to be necessary or expedient for the purpose of—

(i) determining the application, or

(ii) resolving any issue with the applicant or any disagreement between the applicant and any other party, including resolving any issue or disagreement in advance of an oral hearing.

(2) Where the Board holds a meeting in accordance with subsection (1) (c), it shall keep a written record of the meeting and make that record available for inspection.

(3) The Board, or an employee of the Board duly authorised by the Board, may appoint any person to hold a meeting referred to in subsection (1)(c).

(4) The Board may, if it is provisionally of the view that it would be appropriate to grant the railway order concerned were certain alterations (specified in the notification referred to in this subsection) to be made to the terms of the application in respect of it or the proposed order, notify the applicant that it is of that view and invite the applicant to make to the terms of the application or the proposed order alterations specified in the notification and, if the applicant makes those alterations, to furnish to it such information (if any) as it may specify in relation to the proposed application or order, in the terms as so altered, or, where necessary, a revised environmental impact statement in respect of it.

(5) If the applicant makes the alterations to the terms of the application or proposed order specified in a notification given to the applicant under subsection (4), the terms of the application or order as so altered shall be deemed to be the application or order for the purposes of this Part.

(6) The Board shall, where the applicant has made the alterations to the terms of the application or proposed order specified in a notification given to the applicant under subsection (4), require the applicant—



(a) to publish in one or more newspapers circulating in the area or areas in which the proposed railway works would be situate a notice stating that the applicant has, pursuant to an invitation of the Board, made alterations to the terms of the application or order (and the nature of those alterations shall be indicated) and, if it be the case, that information in relation to the terms of the application or order as so altered or a revised environmental impact statement in respect of the development has been furnished to the Board, indicating the times at which, the period (which shall not be less than 3 weeks) during which and the place, or places, where a copy of the information or the environmental impact statement may be inspected free of charge or purchased on payment of a specified fee (which fee shall not exceed the reasonable cost of making such copy) and that submissions or observations in relation to that information or statement may be made to the Board before the expiration of the indicated period, and

(b) to send to the planning authority and each person to which a notice was served pursuant to section 40(1)(c) or (e), and to every (if any) occupier and every (if any) owner of land referred to in the order (being, if the terms of it have been so altered, the order as so altered)—

(i) a notice of the furnishing to the Board of the information or statement referred to in paragraph (a), and

(ii) a copy of that information or statement,

and to indicate to that authority or other person that submissions or observations in relation to that information or statement may be made to the Board before the expiration of a period (which shall be not less than 3 weeks) beginning on the day on which the notice is sent to the authority or other person by the applicant.



(7) The Board shall, in deciding whether to grant the railway order to which the application concerned relates, have regard to any information submitted on foot of a notice under subsection (4), including any revised environmental impact statement, or any submissions or observations made on foot of a request under subsection (1) or a notice under subsection (6).

Objective of the Board in relation to railway orders.

47E.— (1) It shall be the duty of the Board to ensure that—

(a) consultations held under section 47B are completed, and

(b) a decision under section 43 on an application for a railway order is made,

as expeditiously as is consistent with proper planning and sustainable development and, for that purpose, to take all such steps as are open to it to ensure that, in so far as is practicable, there are no avoidable delays at any stage in the holding of those consultations or the making of that decision.

(2) Without prejudice to the generality of subsection (1) and subject to subsections (3) to (6), it shall be the objective of the Board to ensure that a decision under section 43 on an application for a railway order is made—

(a) within a period of 18 weeks beginning on the last day for making submissions or observations in accordance with the notice referred to in section 40(1)(b), or

(b) within such other period as the Minister for the Environment, Heritage and Local Government, having consulted with the Minister, may prescribe by regulations either generally or in respect of a particular class or classes of matter.



(3) Where it appears to the Board that it would not be possible or appropriate, because of the particular circumstances of the matter with which the Board is concerned, to determine the matter within the period referred to in paragraph (a) or (b) of subsection (2) as the case may be, the Board shall, by notice in writing served on the applicant, the Minister, any planning authority involved and any other person who submitted submissions or observations in relation to the matter before the expiration of that period, inform the Minister, the authority and those persons of the reasons why it would not be possible or appropriate to determine the matter within that period and shall specify the date before which the Board intends that the matter shall be determined.

(4) Where a notice has been served under subsection (3), the Board shall take all such steps as are open to it to ensure that the matter is determined before the date specified in the notice.

(5) The Minister for the Environment, Heritage and Local Government, having consulted the Minister, may by regulations vary the period referred to in subsection (2)(a) either generally or in respect of a particular class or classes of applications for railway orders, where it appears to him or her to be necessary, by virtue of exceptional circumstances, to do so and, for so long as the regulations are in force, this section shall be construed and have effect in accordance therewith.

(6) Where the Minister for the Environment, Heritage and Local Government, having consulted with the Minister, considers it to be necessary or expedient that a certain class or classes of application for a railway order that are of special strategic, economic or social importance to the State be determined as expeditiously as is consistent with proper planning and sustainable development, he or she may give a direction to the Board that priority be given to the determination of applications of the class or classes concerned, and the Board shall comply with such a direction.

(7) The Board shall include in each report made under section 118 of the Planning and Development Act 2000 a statement of the number of matters which the Board has determined within a period referred to in paragraph (a) or (b) of subsection (2) and such other information as to the time taken to determine such matters as the Minister for the Environment, Heritage and Local Government may direct.

Construction of certain references and transitional provision.



47F.— (1) References to the Minister in a railway order, being an order made before the amendment of this Act by the *Planning and Development (Strategic Infrastructure) Act 2006*, shall be construed as references to the Board.

(2) Notwithstanding the amendments of this Act made by the *Planning and Development (Strategic Infrastructure) Act 2006*, any thing commenced under this Part but not completed before the commencement of those amendments may be carried on and completed after the commencement of those amendments as if those amendments had not been made.

(3) The reference in subsection (2) to any thing commenced under this Part includes a reference to—

- (a) an application that has been made under section 37 (being that section in the terms as it stood before the commencement of the amendments referred to in that subsection),
- (b) an application that has been made under subsection (7) of section 43 (being that section in the terms as it stood before the commencement of those amendments), and
- (c) any step (including the holding of a public inquiry) that has been taken in the making of a decision in relation to an application referred to in paragraph (a) or (b) or any step that has been taken on foot of the making of such a decision.

(4) For the avoidance of doubt, any questioning, after the commencement of the amendments referred to in subsection (2), by the procedures of judicial review under the Order (within the meaning of section 47) of the validity of any thing referred to in subsection (2) completed after that commencement, or being carried on after that commencement, shall be done in accordance with the provisions of this Part as amended by the *Planning and Development (Strategic Infrastructure) Act 2006*.”.



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